

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Delano Jones #21872-171,

Plaintiff,

vs.

Rex Blocker, M.D.; V. Eneje, MLP; Aimee
Ackley, AHSA; Jeffrey Eiben, EMT; and
Randolph Steele, OD,

Defendants.

C/A No. 9:17-2295-JFA

ORDER

Delano Jones (Plaintiff), proceeding pro se and *in forma paperis*, brings this action against Rex Blocker, V. Eneje, Aimee Ackley, Jeffrey Eiben, and Randolph Steele (Defendants) alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein he suggests that this court should dismiss the action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for lack of prosecution. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.). The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

Defendants filed a motion to dismiss or in the alternative a motion for summary judgment. (ECF No. 27). On May 3, 2018, the Magistrate Judge issued an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying Plaintiff of the summary dismissal procedure and possible consequences if Plaintiff failed to adequately respond to the motion to dismiss. Plaintiff did not respond to Defendants' motion.

On June 13, 2018, the Magistrate Judge issued a Report and Recommendation (Report) where the Magistrate Judge recommended that the action be dismissed without prejudice for lack of prosecution. (ECF No. 30). The Report alerted Plaintiff of the following:

The Clerk shall mail this Report and Recommendation to Plaintiff at his last known address. If the Plaintiff notifies the Court within the time set forth for filing objections to this Report and Recommendation that he wishes to continue with this case and provides a response to the motion for summary judgment, the Clerk is directed to vacate this Report and Recommendation and return this file to the undersigned for further handling.

(ECF No. 30 p. 2) (emphasis in original).

Plaintiff was also advised of his right to file objections to the Report. (ECF No. 30 p. 3). However, Plaintiff did not notify the court that he wished to continue with this case. Plaintiff did not file a response to Defendants' Motion nor did he file objections to the Report. The time within which to do so has now expired.

In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The court must "only satisfy itself that there is

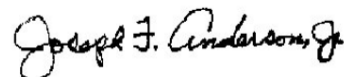
no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

The Magistrate Judge has allowed Plaintiff ample time to respond to the court’s orders and Defendants’ motion yet Plaintiff has failed to do so. A review of the docket reveals that Plaintiff has not notified the Clerk of any address change, nor has any mail been returned to the Clerk from the U.S. Postmaster.

After carefully reviewing the applicable laws and the record in this case, this court accepts the Magistrate Judge’s Report and finds that it fairly and accurately summarizes the facts and applies the correct principles of law. Accordingly, this action is dismissed without prejudice for lack of prosecution pursuant to Rule 41(b). The Clerk is directed to terminate all pending motions in this case.

IT IS SO ORDERED.

July 10, 2018
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge